



U.S. Department of Justice

*United States Attorney
Eastern District of New York*

DIB
F. #2024R00288

*271 Cadman Plaza East
Brooklyn, New York 11201*

November 1, 2024

By ECF and E-mail

Honorable LaShann DeArcy Hall
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: United States v. Long Phi Pham
Criminal Docket No. 24-359 (LDH)

Dear Judge DeArcy Hall:

On October 2, 2024, the defendant Long Phi Pham pleaded guilty before the Honorable Sanket J. Bulsara, United States Magistrate Judge, to the sole count of the Information in the above-captioned matter. This Court has scheduled the defendant's sentencing for April 25, 2025. By this letter, the government respectfully requests that the Court accept the defendant's guilty plea.

The government encloses as Exhibits A and B, respectively: (1) a transcript of the October 2, 2024, plea hearing, during which Judge Bulsara recommended that this Court accept the defendant's guilty plea (see Ex. A at 36:1-4); and (2) a proposed Order.

Very truly yours,

BREON PEACE
United States Attorney

By: David I. Berman
David I. Berman
Assistant U.S. Attorney
(718) 254-6167

cc: Clerk of the Court (LDH)
Michael Soshnick, Esq. (counsel for defendant)

Exhibit A

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA, : -X- 24-CR-359(LDH)(SJB)

-against- : United States Courthouse
LONG PHAM, : Brooklyn, New York

Defendant. : Wednesday, October 2, 2024
2:00 p.m.

TRANSCRIPT OF
CRIMINAL CAUSE FOR ARRAIGNMENT AND GUILTY PLEA
BEFORE THE HONORABLE SANKET J. BULSARA
UNITED STATES MAGISTRATE JUDGE

A P P E A R A N C E S :

For the Government: UNITED STATES ATTORNEY'S OFFICE
Eastern District of New York
271 Cadman Plaza East
Brooklyn, New York 11201
BY: DAVID I. BERMAN, ESQ.
KAITLIN T. FARRELL, ESQ.
Assistant United States Attorneys

For the Defendant: LAW OFFICE OF MICHAEL L. SOSHNICK
Attorney for the Defendant -
Long Pham
170 Old Country Road
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Mineola, New York 11501
BY: MICHAEL L. SOSHNICK, ESQ.

Court Reporter: Anthony D. Frisolone, FAPR, RDR, CRR, CRI
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Proceedings recorded by computerized stenography.
Transcript produced by Computer-aided Transcription.

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1 (In open court.)

2 COURTROOM DEPUTY: We're here for criminal
3 objection 24-CR-359 for a plea hearing. United States
4 Mr. Pham. Counsel please state your appearances for the
5 record starting with the Government.

6 MR. BERMAN: Good afternoon, your Honor. David
7 Berman for the Government along with AUSA Kaitlin Farrell
8 for the Government as well.

9 THE COURT: Good afternoon.

10 MR. SOSHNICK: Good afternoon, your Honor, Counsel
11 and everyone. I'm Michael L. Soshnick, S-o-s-h-n-i-c-k.
12 I'm appearing on behalf of the defendant who is seated to my
13 right.

14 THE COURT: Good afternoon and good afternoon,
15 Mr. Pham. I wanted to clarify a couple of things. One, and
16 I'll ask the Government first, but is it correct that
17 Mr. Pham has not actually formally been arraigned on the
18 information?

19 MR. BERMAN: Correct, your Honor. He was
20 arraigned on the underlying compliant in this action.

21 THE COURT: And there was no indictment prior to
22 the filing of the information; is that right?

23 MR. BERMAN: Correct, your Honor. And we'll be
24 submitting today a waiver of indictment form.

25 THE COURT: The other second -- Counsel, do you

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1 agree with that?

2 MR. SOSHNICK: One hundred percent, your Honor.

3 THE COURT: The second thing is I received an
4 element sheet that was filed on the docket. My version is
5 not signed, is there a signed version?

6 MR. BERMAN: Your Honor, I believe AUSA Ben
7 Weintraub submitted via e-mail an unsigned version to your
8 deputy and I believe I had signed the signed version on the
9 docket.

10 THE COURT: That's fine. I wanted to make sure
11 there was a signed version on the docket somewhere. I
12 didn't go back and check the docket version.

13 Counsel, you have the element sheet?

14 MR. BERMAN: Yes, your Honor.

15 MR. SOSHNICK: Yes, I do, your Honor.

16 THE COURT: Mr. Pham, what I'm going to do now
17 before we actually take -- I understand you intend to plead
18 guilty. But before we do that, as a formal matter, I need
19 to apprise you of certain rights that you have as well as do
20 what's known as an arraignment which is basically letting
21 you know that the Government has filed charges against you
22 in a document called an information, okay?

23 So just so it remind you as of you've been told by
24 a previous judge, you have a constitutional right to remain
25 silent which means that you don't have to make a statement

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1 at any time and you have the right to counsel which means
2 you have a right to have that lawyer represent you at all
3 stages of your case including today's proceedings.

4 Do you understand those rights?

5 THE DEFENDANT: Yes.

6 THE COURT: Mr. Soshnick, does Mr. Pham -- has he
7 received a copy of the information that the Government has
8 filed?

9 MR. SOSHNICK: Yes, your Honor.

10 THE COURT: Does he wish to have a public reading
11 of the charges that are contained in the information?

12 MR. SOSHNICK: No, that won't be necessary, your
13 Honor.

14 THE COURT: So the Court notes that for
15 arraignment purposes Mr. Pham is waiving the right to a
16 public reading of the charges in the information. And I
17 understand that he may want to enter a guilty plea later on
18 in today's proceedings, but just for arraignment purposes,
19 obviously, how does he plead to the information?

20 MR. SOSHNICK: Your Honor, he does intend to plead
21 guilty. If it's your policy to have a not guilty plea
22 entered initially until you go through the colloquy and the
23 defendant allocutes, then, for purposes of the arraignment,
24 at this time, subject to your approval, he pleads not
25 guilty.

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1 THE COURT: Let me make a couple things clear.
2 It's neither my policy, nor is it up to me, it's what the
3 Federal Rules of Criminal Procedure require that when
4 there's a new charging instrument that's placed before the
5 Court and before the defendant that an arraignment happens
6 and he's got to enter a plea. I will not accept a guilty
7 plea without apprising him of all sorts of rights. So, with
8 that, if you can confirm that for arraignment purposes he's
9 entering a not guilty plea I will enter that.

10 MR. SOSHNICK: Thank you, your Honor.

11 THE COURT: Mr. Pham, I understand from your
12 lawyer based on what he just said and what was told to the
13 Court before that despite what we just did, you intend to
14 plead guilty to the charges that are contained in the
15 information; is that correct?

16 THE DEFENDANT: That's correct, your Honor.

17 THE COURT: Okay. This is a serious decision.
18 I'm to make sure that when -- and before I can enter a plea,
19 that I'm comfortable accepting your plea and you understand
20 what it means to plead guilty and what the consequences of
21 any guilty plea would be. And so, I'm going to ask you some
22 questions and it's important that your answers to my
23 questions be made under oath. So I'm going to have my
24 deputy, Mr. Manson, swear you in if you could kindly follow
25 his instructions.

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1 COURTROOM DEPUTY: Sir, can you please raise your
2 right hand.

3 Do you solemnly swear or affirm that the answers
4 and the testimony that you are about to give to the Court
5 will be the truth, the whole truth, and nothing but the
6 truth.

7 (Defendant sworn.)

8 THE DEFENDANT: Yes.

9 COURTROOM DEPUTY: You may have a seat.

10 THE COURT: Mr. Pham, do you understand now that
11 you've been placed under oath that your answers to my
12 questions will be subject to the penalties of perjury or
13 making a false statement?

14 THE DEFENDANT: Yes, I understand, your Honor.

15 THE COURT: Just to be clear, what that means if I
16 ask you a question and you tell me a lie today, the
17 Government can prosecute for making a false statement and
18 use what you say today in such a case against you.

19 Do you understand that?

20 THE DEFENDANT: I understand.

21 THE COURT: And now, the first thing I want you to
22 understand before we proceed is that this is
23 Judge Dearcy Hall's case. She is the district judge who
24 will sentence you and make the ultimate decision on whether
25 to accept your guilty plea. If you wish, you have an

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1 absolute right to plead and proceed before her and there is
2 no prejudice to you. Alternatively, I will listen to your
3 plea today. As you can see, we have a court reporter
4 present here today who is taking down today's proceedings.
5 As a result of that, there will be a transcript made of
6 today's proceedings. Judge Dearcy Hall will review that
7 transcript and do so in connection with, and prior to, your
8 sentence.

9 Do you understand what I've explained?

10 THE DEFENDANT: I understand.

11 THE COURT: And so, do you wish to give up your
12 right to have Judge Dearcy Hall hear your plea and do you
13 wish to instead wish to proceed before me?

14 THE DEFENDANT: I wish to proceed before you, yes.

15 THE COURT: Are you making your decision to
16 proceed before me voluntarily and based upon your own free
17 will?

18 THE DEFENDANT: Yes.

19 THE COURT: Has anyone threatened or forced you or
20 made promises to you that are causing you to proceeded to
21 today?

22 THE DEFENDANT: No.

23 THE COURT: I have what is Court Exhibit 1 which
24 is a consent form to have a plea taken before a
25 United States Magistrate Judge.

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1 Mr. Pham, can you just confirm that this is your
2 signature on the document?

3 THE DEFENDANT: Yes, your Honor, that's my
4 signature.

5 THE COURT: Based upon Court Exhibit 1, which is a
6 written consent form that's signed by Mr. Pham, by his
7 lawyer, and by the Government as well as based upon the
8 answers to my questions, I find that his decision to proceed
9 before me is voluntary and of his own free will and
10 therefore I will proceed to take Mr. Pham's plea.

11 Mr. Pham, before I accept any plea that you make,
12 I'm going to ask you some questions about you and your
13 background to make sure that it's okay to proceed today. If
14 you don't understand any of my questions, let me know and
15 I'll rephrase them, okay?

16 THE DEFENDANT: Okay.

17 THE COURT: Sir, what's your full name?

18 THE DEFENDANT: First name is Long, L-o-n-g.
19 Middle name Phi, P-h-i. Last name is Pham, P-h-a-m.

20 THE COURT: How old are you.

21 THE DEFENDANT: I'm 36, your Honor.

22 THE COURT: How far did you get in school?

23 THE DEFENDANT: I finished high school and roughly
24 two years of college.

25 THE COURT: And just to confirm, you have no

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1 trouble speaking or understanding English; correct?

2 THE DEFENDANT: Correct.

3 THE COURT: And are you currently under the care
4 of a doctor or psychiatrist for any reason.

5 THE DEFENDANT: No, your Honor.

6 THE COURT: In the last 24 hours, have you had any
7 drugs or medicine or pills?

8 THE DEFENDANT: No.

9 THE COURT: Have you had any alcoholic beverages?

10 THE DEFENDANT: No.

11 THE COURT: Have you ever been hospitalized or
12 treated for any drug addiction or alcoholism?

13 THE DEFENDANT: No.

14 THE COURT: Have you ever been hospitalized or
15 treated for any mental or emotional health condition?

16 THE DEFENDANT: No.

17 THE COURT: Is your mind clear today?

18 THE DEFENDANT: Very clear, your Honor.

19 THE COURT: Do you understand what's going on?

20 THE DEFENDANT: Yes.

21 THE COURT: Mr. Pham, as I mentioned before, as
22 someone who has been charged in a federal criminal case, you
23 have a right to a lawyer. And you have a right to have that
24 lawyer represent you from stage of your case. From the time
25 you are arrested and charged until however your case may end

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1 including any trial, any sentencing, and even any appeal.

2 If you couldn't afford a lawyer, the Court would appoint one
3 to represent you.

4 Do you understand what I've explained?

5 THE DEFENDANT: I understand.

6 THE COURT: And is Mr. Soshnick your attorney?

7 THE DEFENDANT: Mr. Soshnick is my attorney, yes.

8 THE COURT: If, at any time today, you want to
9 consult with him because you have a question, you need
10 reassurance, for any reason at all, let me know and I'll
11 permit you to consult with him, okay?

12 THE DEFENDANT: Thank you, your Honor.

13 THE COURT: Have you had any difficulty
14 communicating with him?

15 THE DEFENDANT: With Mr. Soshnick?

16 THE COURT: Yes.

17 THE DEFENDANT: No.

18 THE COURT: Have you had enough time to discuss
19 with him your decision to enter a guilty plea today?

20 THE DEFENDANT: I've had enough time.

21 THE COURT: Are you fully satisfied with the
22 representation and advice that he's provided to you?

23 THE DEFENDANT: Yes.

24 THE COURT: Counsel, have you discussed this
25 matter and decision to enter a guilty plea with your client?

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1 MR. SOSHNICK: Yes, your Honor.

2 THE COURT: Have you had any difficulty in
3 communicating with him?

4 MR. SOSHNICK: None whatsoever.

5 THE COURT: Are you fully satisfied that he
6 understands the rights he would be waiving if he entered a
7 guilty plea today?

8 MR. SOSHNICK: Yes, I am, your Honor.

9 THE COURT: And do you believe that he's capable
10 of understanding today's proceedings?

11 MR. SOSHNICK: Yes, I am.

12 THE COURT: Do you have any doubt at all about his
13 competence to enter a guilty plea today?

14 MR. SOSHNICK: None whatsoever.

15 THE COURT: Have you advised him of the maximum
16 and minimum sentence and fine that could be imposed upon him
17 if he entered a guilty plea today.

18 MR. SOSHNICK: Yes, your Honor.

19 THE COURT: Have you discussed with him the
20 federal sentencing guidelines and how those guidelines might
21 affect his case?

22 MR. SOSHNICK: Yes, your Honor.

23 THE COURT: Mr. Pham, I mentioned to you and
24 discussed with your lawyer the fact that the Government is
25 proceeding against you through a document called an

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1 information, okay? The information is a document they filed
2 with the Court which charges you with a serious crime; in
3 fact, a federal felony.

4 Now, the Government typically cannot come to court
5 and simply file a charge against someone unless you agree to
6 it and what do I mean by that?

7 Under the U.S. Constitution, you have the right to
8 have evidence present presented to what's known as a grand
9 jury. The grand jury is made up of at least 16 people but
10 no more than 23 people. And you have the right to have a
11 grand jury determine whether or not there's probable cause
12 or basically a certain probability to conclude that you've
13 committed the crime crimes they want to charge you with,
14 okay?

15 To get what's known as an indictment, the
16 Government has to persuade a majority of grand jury members
17 that there's probable cause, or there's probability, to
18 believe that you've committed the crime or offense that they
19 want to charge you with. If the grand jury finds that
20 there's probable cause, they return what's known as an
21 indictment. If the grand jury doesn't find probable cause,
22 no charges are brought against you.

23 So when somebody waives indictment, what you're
24 doing is you're giving up your right to have a grand jury
25 make that initial determination about probable cause and

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1 you're saying it's okay if the Government comes to court and
2 simply files a charge against you directly like they did in
3 this case with respect to the information.

4 Do you understand what I've explained to you?

5 THE DEFENDANT: I understand.

6 THE COURT: Have you discussed with your lawyer
7 what it means to waive your right to indictment by a grand
8 jury?

9 THE DEFENDANT: Yes.

10 THE COURT: And do you understand that you have a
11 right to have evidence presented to a grand jury and have an
12 indictment returned by a grand jury?

13 THE DEFENDANT: Yes, I understand.

14 THE COURT: Counsel, are you satisfied your client
15 understands what it means to waive indictment?

16 MR. SOSHnick: Yes, I am, your Honor.

17 THE COURT: Do you know of any reason that he
18 should not waive indictment?

19 MR. SOSHnick: I have no reason why he shouldn't
20 waive indictment.

21 THE COURT: Mr. Pham, are you prepared to waive
22 your right to have a grand jury determine whether there's
23 probable cause?

24 THE DEFENDANT: Yes.

25 THE COURT: And has anyone threatened or forced

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1 you to waive your right to be indicted by a grand jury?

2 THE DEFENDANT: No, your Honor.

3 THE COURT: And so, you wish to waive your right?

4 THE DEFENDANT: I wish to waive my rights, yes.

5 THE COURT: I have a waiver of indictment form
6 that bears the same signature as the other document that's
7 Court Exhibit 2. And I note that it's signed by Mr. Pham.
8 I also note it's signed by his lawyer. And because of the
9 answers to the questions I just asked, I'm finding that
10 Mr. Pham's waiver of indictment is knowing and voluntary
11 and, therefore, I'll proceed to sign the waiver of
12 indictment form.

13 Mr. Pham, did you have an opportunity to discuss
14 the information and discuss it with your lawyer?

15 THE DEFENDANT: I have, your Honor.

16 THE COURT: And do you believe that you understand
17 what the Government charged you with in the information?

18 THE DEFENDANT: Yes, I understand.

19 THE COURT: I'm going to go over the charge just
20 to make sure we're on the same page and have the same
21 understanding of what the Government has charged you with,
22 okay?

23 THE DEFENDANT: Yes.

24 THE COURT: They've charged you with a federal
25 felony which is has a short title "Wire Fraud Conspiracy."

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1 A conspiracy is an illegal agreement, okay? And the
2 Government has charged or alleged that between January 2024
3 and March 2024, you entered in an illegal agreement. And
4 you entered into an illegal agreement knowing what you were
5 doing and with an intent to join that agreement. And the
6 agreement is illegal because it had an illegal objective.

7 What is the Government charging? The Government
8 says that the illegal objective was to defraud certain
9 entities which are referred to as "sports betting entities"
10 and to obtain money or property from them using false
11 statements, promises, and that the objective was to use what
12 are known as "wires" which are -- it could be e-mail, it
13 could be telephone, cell phone, to achieve that illegal
14 objective. In other words, the Government's charging you
15 with joining an illegal agreement to obtain money or
16 property using false statements and using the wires or
17 interstate wires.

18 Do you understand what the Government has charged
19 you with?

20 THE DEFENDANT: I understand.

21 THE COURT: I understand you wish to plead guilty.
22 One of the things that I'm telling you is that when you
23 plead guilty, you are giving up your right to have a jury
24 determine your guilt, okay?

25 So you understand what it means to give up your

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1 right to have a jury determine your guilt, okay?

2 THE DEFENDANT: I understand.

3 THE COURT: So that you fully understand, I'm
4 going to actually tell you what the Government would have to
5 show at a trial against you in order for the jury to return
6 a guilty verdict on this charge of wire fraud conspiracy.

7 So that when you waive your right to a jury trial, you
8 understand what you're actually waiving, okay?

9 At a jury trial, the Government bears the burden
10 of proof. They have to prove your guilt beyond a reasonable
11 doubt, you don't have to prove your innocence. And in order
12 for the Government to get the jury to return a guilty
13 verdict against you on wire fraud conspiracy, they have to
14 prove certain things. Those things are called "Elements of
15 the Offense." Okay?

16 What would the Government have to prove in order
17 for the jury to return a guilty verdict against you? They
18 have to prove that two or more people formed an unlawful
19 agreement. The objective of that unlawful agreement was to
20 commit wire fraud, in other words, it was an illegal
21 objective. And they'd have to prove that you knowingly and
22 intentionally became a member of that conspiracy or
23 agreement, okay? And to be clear, the objective has to be
24 illegal. And here, the alleged illegal objective was wire
25 frayed.

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1 What's wire fraud? Wire fraud is a scheme to
2 obtain money or property using false statements or promises
3 or representations. And because it's wire fraud, it
4 involves the use of interstate wires which are basically any
5 form of communication that crosses states lines such as
6 e-mail or telephone or cell phone.

7 So the Government has to show there was an illegal
8 formed by two or more people. That you joined that illegal
9 agreement. And here, the illegal objective was wire fraud
10 which is a scheme to defraud people to obtain money or
11 property through the use of false representations and it
12 involves the use of wires.

13 Do you understand that the Government would have
14 to show those things in order for the jury to return a
15 guilty verdict against you?

16 THE DEFENDANT: I understand.

17 THE COURT: Does the Government believe I
18 correctly summarized charge and the elements?

19 MR. BERMAN: Yes, your Honor.

20 THE COURT: Counsel, do you agree?

21 MR. SOSHNICK: Yes, your Honor.

22 THE COURT: Mr. Pham, I'm going to explain to you
23 what rights you'd be giving up if you enter a guilty plea
24 today. You recall a few minutes ago we went through what
25 seemed like this formal exercise of your lawyer entering a

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1 not guilty plea on your behalf; do you recall that?

2 THE DEFENDANT: Yes.

3 THE COURT: The reason we go through that is
4 because you have an absolute right to to plead not guilty.

5 Do you understand that?

6 THE DEFENDANT: I understand.

7 THE COURT: It means that you have a choice. It's
8 up to you to decide what to do, not your lawyer, not anyone
9 else. You can withdraw this not guilty plea that was
10 entered a few minutes ago and simply go to trial. Sorry.
11 You can withdraw your not guilty plea and enter a plea of
12 guilty as I understand you wish to do, or you can just keep
13 a not guilty plea and proceed to trial.

14 Do you understand that?

15 THE DEFENDANT: I understand.

16 THE COURT: By pleading not guilty, and if you
17 kept your not guilty plea, okay, and proceeded to trial, you
18 have the right under the constitution and laws of the
19 United States to what's known as a "speedy and public trial"
20 and that's before a jury. And, at that trial, you'd have
21 the assistance of your lawyer and the trial would be about
22 the charges either in the information or any other charging
23 document that the Government uses.

24 Do you understand that?

25 THE DEFENDANT: I understand.

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1 THE COURT: Now, at a trial, you would be presumed
2 innocent, you wouldn't have to prove your innocence. And
3 that's because under our legal system, it's the Government
4 that bears the burden of proof. They have to prove
5 someone's guilt beyond a reasonable doubt. And they've got
6 to prove those things up we just went over for the jury to
7 return a guilty verdict against you.

8 Do you understand that?

9 THE DEFENDANT: I understand.

10 THE COURT: If, at a trial, the Government failed
11 to meet its burden of proof, if it failed to prove your
12 guilt beyond a reasonable doubt, a jury is required to find
13 you not guilty.

14 Do you understand that?

15 THE DEFENDANT: I understand.

16 THE COURT: Now, if you did decide to proceed to a
17 trial, witnesses for the Government would have to come to
18 court and testify in your presence in front of you. Your
19 lawyer would have the right to cross-examine those
20 witnesses, to offer evidence on your behalf, to offer
21 argument on your behalf.

22 Do you understand that?

23 THE DEFENDANT: I understand.

24 THE COURT: Your lawyer would also have the
25 ability to subpoena or compel or basically force witnesses

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1 to come to court to testify in your case.

2 Do you understand that?

3 THE DEFENDANT: I understand.

4 THE COURT: Also, if you had a trial, if you
5 wanted to testify in your own case on your own behalf, you
6 could do that. On the other hand, you could not be forced
7 to testify in your own case if you didn't want to.

8 Under the constitution and laws of the
9 United States, no person can be forced to be a witness
10 against himself or herself. So if you had a trial in this
11 case, in your case, and you chose not to testify,
12 Judge Dearcy Hall would be required by law to instruct the
13 jury that they couldn't hold that fact. They couldn't hold
14 your decision not to testify against you in determining
15 whether the Government had met its burden of proving your
16 guilt.

17 Do you understand that?

18 THE DEFENDANT: I understand.

19 THE COURT: If instead of going to trial, you
20 plead guilty today, and if Judge Dearcy Hall accepts your
21 guilty plea, you're giving up your constitutional right to
22 trial and each of the other things that I just
23 mentioned to you that are accompany your trial rights.
24 There simply will not be a trial in your case, the Court
25 will enter a judgment of guilty based upon what you say

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1 today.

2 Do you understand that?

3 THE DEFENDANT: I understand.

4 THE COURT: If you do decide to plead guilty, I
5 have to ask you questions about what you did in order to
6 satisfy myself and Judge Dearly Hall that you are, in fact,
7 guilty of a crime and that you are, in fact, guilty of a
8 crime the Government has charged you with. What that means
9 is you have to answer my questions, you have to acknowledge
10 your guilt. And it also means that you are giving up your
11 right not to be a witness against yourself, not to testify
12 against yourself.

13 Do you understand that?

14 THE DEFENDANT: I understand.

15 THE COURT: Also, if you plead guilty today, and
16 you admit to criminal conduct, and you admit to committing a
17 crime, and Judge Dearly Hall accepts your plea, you cannot
18 appeal to a higher court about whether or not you committed
19 that crime or not. That will be over by your guilty plea.

20 Do you understand that?

21 THE DEFENDANT: I understand.

22 THE COURT: Are you willing to give up your right
23 to trial and each of the other rights that I just mentioned?

24 THE DEFENDANT: Yes, your Honor.

25 THE COURT: I have an agreement between Mr. Pham

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1 and the Government that's marked as Court Exhibit 3.

2 Mr. Pham, I also note that the agreement is signed
3 by the Government. His lawyer signed by -- and Mr. Pham as
4 well.

5 Mr. Pham, did you read this agreement carefully?

6 THE DEFENDANT: I have, your Honor.

7 THE COURT: You discussed it with your lawyer?

8 THE DEFENDANT: I have.

9 THE COURT: You believe you understand it?

10 THE DEFENDANT: Yes.

11 THE COURT: The Government represents that Court
12 Exhibit 3 is the entirety of the understanding it's reached
13 with Mr. Pham?

14 MR. BERMAN: Yes, your Honor.

15 THE COURT: And, Counsel, do you agree that Court
16 Exhibit 3 represents the entirety of the understanding that
17 the Government has reached with your client?

18 MR. SOSHNICK: Yes, I do, your Honor.

19 THE COURT: Mr. Pham, when you were reading it,
20 was there any particular provision that was not clear to you
21 or that you needed explained in further detail?

22 THE DEFENDANT: No, your Honor.

23 THE COURT: And outside of the promises that are
24 contained in this agreement, did anyone make any other
25 promises that are causing you to plead guilty today?

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1 THE DEFENDANT: No, your Honor.

2 THE COURT: There are certain provisions of this
3 that I'm required to go over with you that I'm going to go
4 over with you now.

5 Do you have a copy, by the way?

6 MR. SOSHNICK: Yes, your Honor.

7 MS. FARRELL: I have an extra.

8 THE COURT: Mr. Pham, I'm going to explain to you
9 what the minimum and maximum sentence and fine that can be
10 imposed upon you for conspiracy to commit wire fraud, okay?

11 There's a minimum term of imprisonment of zero
12 years and a maximum term of imprisonment of 20 years, okay?

13 What happens after someone finishes their term in
14 a federal prison, their term of imprisonment. They are
15 subject to the supervision of the probation department,
16 okay? The probation department monitors their compliance
17 with certain conditions that the Court imposes. Conditions
18 like don't commit another crime, for example. That period
19 of time when you are under the supervision of the probation
20 department is called supervised release. How long could you
21 be put on supervised release? A maximum of three years to
22 follow any prison term that you're subject to.

23 What happens if you violate a condition that the
24 probation department is monitoring? You could actually be
25 subject to additional time in prison. How much additional

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1 time? A maximum of two years.

2 Do you understand that?

3 THE DEFENDANT: I understand.

4 THE COURT: You're also subject to a maximum fine
5 for this offense which is the greater of \$250,000 or twice
6 the gross gain or gross loss.

7 Do you understand that?

8 THE DEFENDANT: I understand.

9 THE COURT: You're also subject to, on the next
10 page, what's known as restitution. Restitution is payments
11 to victims of your offense and that's in an amount that the
12 Court will determine at your sentencing.

13 You're also subject to forfeiture which means you
14 are giving up your rights to property, money, or things that
15 the Government believes are unlawful proceeds involved or
16 things involved in your criminal conduct. And you're
17 required to pay a hundred dollar special assessment.

18 Do you understand that?

19 THE DEFENDANT: I understand that.

20 THE COURT: Do you see Paragraph 3 which runs from
21 Page 2 to the top of Page 5?

22 THE DEFENDANT: Yes.

23 THE COURT: This paragraph describes conduct
24 related to several different frauds, specifically, the [REDACTED]
25 [REDACTED]

Proceedings

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2

3 Do you see that?

4 THE DEFENDANT: I see it.

5 THE COURT: This agreement says that you are
6 stipulating, which means that you are agreeing, that you
7 engaged in the conduct related to each of these frauds. And
8 furthermore, the Court, meaning, Judge Dearcy Hall can
9 consider that conduct. In other words, your agreement that
10 you committed these frauds in connection with your
11 sentencing.

12 Do you understand that?

13 THE DEFENDANT: I understand.

14 THE COURT: And that is conduct that is separate
15 and apart from the conduct that you are pleading guilty to.

16 Do you understand that?

17 THE DEFENDANT: I understand.

18 THE COURT: In addition, this paragraph provides
19 that you are agreeing to pay restitution, in other words,
20 make payments to victims of these frauds in addition to any
21 restitution that is required to victims for the offense that
22 you are pleading guilty to.

23 Do you understand that?

24 THE DEFENDANT: I understand that.

25 THE COURT: Paragraph 4 is what's known as an

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1 appellate waiver, okay? I'm going to read it to you and
2 then explain it to you. It says, "The defendant," that's
3 you, "agrees not to file an appeal or otherwise challenge
4 the conviction or sentence in the event the Court imposes a
5 term of imprisonment at or below 57 months."

6 That says, and what that means, is that you're
7 agreeing that if Judge Dearcy Hall gives you a sentence of
8 imprisonment of 57 months or less, you are not going to
9 appeal either your conviction or your sentence or challenge
10 your conviction or your sentence.

11 Do you understand that?

12 THE DEFENDANT: I understand.

13 THE COURT: Paragraph 7, which is on Page 7, this
14 is one of the penalties that I mentioned before.
15 Forfeiture, and it says that you are consenting to the entry
16 a forfeiture money judgment in an amount of \$393,136.62.

17 Do you see that?

18 THE DEFENDANT: I see it, your Honor.

19 THE COURT: Do you understand that you're agreeing
20 to have this forfeiture judgment entered and that you're
21 required to cooperate with the Government in trying to
22 recover those funds?

23 THE DEFENDANT: Yes.

24 THE COURT: Do you also understand, sir, that you
25 have certain obligations, which are all throughout this

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1 agreement, that things that you have to do under this
2 agreement?

3 THE DEFENDANT: Yes.

4 THE COURT: Do you understand that if you don't do
5 those things, you're still going to be bound by a guilty
6 plea?

7 THE DEFENDANT: Yes.

8 THE COURT: Any other provision the Government
9 wishes me to go over with Mr. Pham?

10 MR. BERMAN: No, your Honor.

11 THE COURT: Counsel?

12 MR. SOSHNICK: No. Thank you, your Honor.

13 THE COURT: Mr. Pham, I'm going to discuss with
14 you now how Judge Dearcy Hall will determine your sentence.

15 As a first step, she's going to consider what are
16 known as "the advisory federal sentencing guidelines."
17 Those guidelines are issued by a federal agency known as the
18 United States Sentencing Commission and they'll help her
19 determine what a reasonable sentence is in your case.

20 What do I mean by "the guidelines" and "advisory"?
21 What do those things mean? The guidelines are applied to a
22 person and their conduct, okay? When they're applied, they
23 result in a guideline sentencing range, a term of
24 imprisonment, from A to B. That's what it means when the
25 guidelines are applied to someone's case.

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1 They're advisory because Judge Dearcy Hall is not
2 required to give you a sentence in that range, in that
3 A-to-B range. They're not mandatory but because they're
4 advisory, they're an important part of sentencing and she's,
5 in fact, required to figure out what your guidelines range
6 is and she'll consider that range in deciding what sentence
7 to ultimately impose upon you.

8 Do you understand what I've just explained?

9 THE DEFENDANT: Yes.

10 THE COURT: And have you discussed the sentencing
11 guidelines with your lawyer and how they're calculated and
12 how they might affect your case?

13 THE DEFENDANT: I have, your Honor.

14 THE COURT: Now, Judge Dearcy Hall also has to
15 determine whether there are any factors that would allow her
16 to depart or vary from the advisory guidelines either
17 upwardly or downwardly, in other words, impose a sentence
18 more severe from that range or less severe than that range.

19 In addition, there's a federal sentencing law,
20 okay, that requires a sentencing judge to consider certain
21 factors in determining someone's sentence.

22 What are those factors? Those are things like
23 your characteristics your background; the facts and
24 circumstances of your offense; what the nature of the crime
25 is; what you did; what was your involvement. And it may

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1 that what's known as a non-guideline sentence is
2 appropriate.

3 The reason I tell you all of this is that until
4 the actual date of sentencing, until your sentence is
5 actually imposed, you can't know with certainty what the
6 guidelines will be or whether there'll be grounds to depart
7 upwardly or downwardly or whether the Court will simply
8 impose a non-guideline sentence entirely.

9 Do you understand what I've just explained?

10 THE DEFENDANT: I understand.

11 THE COURT: Your sentencing date is currently at
12 the time for April 25th of 2025 at 12:00 o'clock, okay? If
13 the parties need a different date she should conduct Judge
14 Dearcy Hall.

15 Prior to that date, you're actually going to be
16 interviewed by the probation department. The probation
17 department is going to issue what's known as a presentence
18 investigation report. That report is going to give and lay
19 out certain facts, okay, who you are, your background, what
20 you did. And you'll have an opportunity to challenge any of
21 the facts or things found by the probation department. You
22 can challenge them after talking and discussing the report
23 with your lawyer. It will also recommend to Judge Dearcy
24 Hall a guideline range.

25 Do you understand what I've explained about this

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1 report?

2 THE DEFENDANT: I understand.

3 THE COURT: Now, despite what I've said, it's
4 important for you to know now what the potential guideline
5 sentence and range is based upon the facts that are known
6 now. This is because it's an estimate, it's essentially a
7 guess and an estimate or a guess can be wrong.

8 Do you understand that?

9 THE DEFENDANT: I understand.

10 THE COURT: What's the Government's estimate of
11 the guideline range?

12 MR. BERMAN: Your Honor, the Government's estimate
13 of the top of the guidelines range, the background, and that
14 Mr. Pham is Criminal History Category I is that with,
15 assuming three points of acceptance of responsibility,
16 Mr. Pham would be in adjusted offense level of 22 with a
17 guidelines range of 41 to 51 months in custody.

18 THE COURT: So, Mr. Pham, the Government has
19 estimated that your guideline range is 41 to 51 months in
20 prison.

21 Do you understand, actually, that this estimate is
22 actually that they just gave me it's not binding on the
23 Government or the probation department or most importantly
24 Judge Dearcy Hall.

25 Do you understand that?

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1 THE DEFENDANT: I understand.

2 THE COURT: Do you understand -- the reason I say
3 that is the Government's estimate that they just gave you is
4 wrong, you're still bound by your guilty plea if you enter
5 one today.

6 THE DEFENDANT: Yes.

7 THE COURT: Counsel, have you given -- I don't
8 need to know what it is, but have you given an estimate of
9 the guideline range to your client.

10 MR. SOSHNICK: Yes, I have, your Honor.

11 THE COURT: Mr. Pham, do you understand that if
12 your lawyer's estimate of the guideline range is wrong,
13 you're still bound by your guilty plea?

14 THE DEFENDANT: Yes, I understand.

15 THE COURT: The reason I say all of this is that
16 Judge Dearcy Hall is actually not bound by anything in this
17 agreement or what the Government says the guideline range is
18 or your lawyer says the guideline range is. She is going to
19 sentence you based upon her interpretation and her
20 application of the guidelines based on what her
21 understanding of what the law is. And although the
22 guidelines are an important factor, they're an advisory
23 factor, in determining what your sentence should be, she
24 actually has the authority to depart upwardly, give you a
25 more severe sentence, or depart downwardly, give you a less

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1 severe sentence or give you a non-guidelines sentence
2 entirely.

3 Do you understand?

4 THE DEFENDANT: Yes.

5 THE COURT: Under the federal guidelines
6 sentencing system now, there is no parole board or parole
7 commission. What that means, practically speaking, is
8 whatever sentence you receive for imprisonment from
9 Judge Dearcy Hall, that's going to come pretty close to the
10 amount of time you would spend in federal prison and you
11 don't have an opportunity to appeal to what's known as a
12 parole board or parole commission because for individuals
13 sentenced now in the federal system, there is no such as a
14 parole board or parole commission.

15 Do you understand?

16 THE DEFENDANT: I understand.

17 THE COURT: Do you have any questions for me about
18 what you're charged with, what your rights are, or anything
19 else that I've explained that may not be clear?

20 THE DEFENDANT: No, your Honor.

21 THE COURT: Are you ready to plead, sir?

22 THE DEFENDANT: Yes, I am.

23 THE COURT: Counsel, do you know any reason why
24 your client should not enter a guilty plea today?

25 MR. SOSHNICK: No, your Honor.

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1 THE COURT: Are you aware of any complete legal
2 defense to the charge that would prevail at a trial?

3 MR. SOSHNICK: No, your Honor.

4 THE COURT: Mr. Pham, how do you plead to the
5 single count in the information which charges you with wire
6 fraud conspiracy, guilty or not guilty?

7 THE DEFENDANT: Guilty.

8 THE COURT: And are you making this guilty plea
9 voluntarily and of your own free will?

10 THE DEFENDANT: Yes, it is.

11 THE COURT: And has anyone threatened you or
12 forced you to pressured you to plead guilty today?

13 THE DEFENDANT: No.

14 THE COURT: Outside of that agreement that we went
15 over, did anyone make you any other promises that are
16 causing you to plead guilty today?

17 THE DEFENDANT: No.

18 THE COURT: Has anyone promised you what sentence
19 you'll receive from Judge Dearcy Hall if you pled guilty?

20 THE DEFENDANT: No.

21 THE COURT: Can you tell me in your own words what
22 you did that leads you to believe that you are guilty of
23 this crime? And if you're reading a statement, that's fine.
24 Just read it slowly so that the Court reporter can capture
25 it and can I can take down notes.

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1 THE DEFENDANT: Your Honor, between on or about
2 January 2024 and on or about March 2024, I agreed with
3 others to cause bets to be placed with sports books based on
4 inside information. Two of these bets were made with
5 knowledge that Jontay Porter of the Toronto Raptors would
6 exit these games early make it more probable that he would
7 underperform relative to the lines set by the sports books.

8 It was with the intent of the conspiracy to obtain
9 money from the sports books by winning the bets that were
10 placed based upon inside information. My co-conspirators
11 and I planned the scheme through a series of telephone calls
12 and text messages in advance of games. I was physically
13 present in the Eastern District of New York while
14 participating in the planning of the scheme.

15 THE COURT: When you took these actions that you
16 just -- well, first of all, you just read a statement out
17 loud. Did you, in fact, do all the things you said you did?

18 THE DEFENDANT: I did, your Honor.

19 THE COURT: And when you took each of these steps
20 or did all of the things that you just described, did you
21 know what you were doing?

22 THE DEFENDANT: I did.

23 THE COURT: Was it your intent to join into an
24 illegal agreement when you took these steps?

25 THE DEFENDANT: It was, your Honor.

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1 THE COURT: The Government believe that the
2 factual allocution is sufficient?

3 MR. BERMAN: Your Honor, the Government would add
4 that it would proffer that at trial --

5 THE COURT: That was going to be my next question.

6 Before that, do you want me to ask any follow-up
7 questions of Mr. Pham?

8 MR. BERMAN: Not at this time, your Honor.

9 THE COURT: So, just so the record is clear, does
10 the Government want to put anything on the record about what
11 it would be able to prove at trial if this offense against
12 Mr. Pham went to trial?

13 MR. BERMAN: Yes, your Honor.

14 In addition to what Mr. Pham just allocuted to,
15 among other things, the Government would prove at trial that
16 Mr. Pham and his co-conspirators violated, knowingly
17 violated, the terms of use of the betting companies
18 identified in the information which prohibited, among other
19 things, in sum and substance, betting on inside information.

20 THE COURT: Based on the information that's been
21 given to me, meaning, the answers to my questions as well as
22 what the Government has stated, I find that Mr. Pham's
23 actions today, in entering a guilty plea, are voluntary.
24 That he fully understands the charge against him, his
25 rights, and the consequences of his plea and that there's a

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1 factual basis for his plea. And, therefore, it's my
2 recommendation to Judge Dearly Hall that she accept
3 Mr. Pham's guilty plea to the single count of the
4 information charging wire fraud conspiracy.

5 I've informed you about the sentencing date.
6 What's the Government's position on bail.

7 MR. BERMAN: Your Honor, the Government and
8 defense have conferred. The existing bail conditions, the
9 parties are satisfied with.

10 THE COURT: Counsel, do you agree?

11 MR. SOSHNICK: Yes.

12 THE COURT: Mr. Pham, before today, you were out
13 on bail and after today, you're still going to be out on
14 bail. And you were subject to certain conditions of your
15 bail that were previously explained to you.

16 Do you understand that those conditions continue
17 to apply moving forward until your sentencing?

18 THE DEFENDANT: I do, your Honor.

19 THE COURT: And do you understand -- you were
20 previously informed of the consequences of violating any of
21 those conditions or not reporting to the Court, those
22 consequences continue.

23 Do you understand? Do you have any questions
24 about any of that.

25 THE DEFENDANT: I have no questions, your Honor.

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1 THE COURT: The other thing is because you have
2 now entered a guilty plea, and it's been my recommendation
3 to Judge Dearcy Hall that she accept your plea, if you were
4 to violate your bail condition or engage in conduct in
5 violation of your bail conditions, she could take that into
6 account in determining your sentence on this offense.

7 Do you understand that?

8 | THE DEFENDANT: I understand.

9 THE COURT: Do you have any questions for me?

THE DEFENDANT: I have no questions, your Honor.

11 THE COURT: Anything else from the Government?

12 MR. BERMAN: No, your Honor.

13 THE COURT: Anything else from the defense?

14 MR. SOSHNICK: Nothing further. Thank you very
15 much, your Honor.

16 THE COURT: I wish you all good health. Have a
17 nice day.

18 MS. FARRELL: Thank you, your Honor.
(WHEREUPON, this matter was adjourned.)

* * *

CERTIFICATE OF REPORTER

21 I certify that the foregoing is a correct transcript of the
record of proceedings in the above-entitled matter.

Anthony D. Trisolone

25 Anthony D. Frisolone, FAPR, RDR, CRR, CRI
Official Court Reporter

Exhibit B

F. # 2024R00288

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

- - - - - X

UNITED STATES OF AMERICA

- against -

LONG PHI PHAM,

[PROPOSED]
ORDER ACCEPTING
GUILTY PLEA

No. 24-CR-359 (LDH)

Defendant.

- - - - - X

Upon a review of the transcript of the guilty plea of the defendant LONG PHI PHAM, offered on October 2, 2024, before the Honorable Sanket J. Bulsara, United States Magistrate Judge, in the above-captioned matter, this Court finds that the defendant pleaded guilty knowingly and voluntarily, and that a factual basis supports the defendant's plea.

IT IS HEREBY ORDERED that the guilty plea of the defendant, offered on October 2, 2024, before Judge Bulsara is accepted.

Dated: Brooklyn, New York

_____, 2024

THE HONORABLE LASHANN DEARCY HALL
UNITED STATES DISTRICT JUDGE
EASTERN DISTRICT OF NEW YORK